

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JUL 11 2017

JULIA C. DUDLEY, CLERK
BY:  DEPUTY CLERK

OWEN LEE LANIER,
Petitioner,

Civil Action No. 7:17-cv-00224

MEMORANDUM OPINION

v.

By: Hon. Michael F. Urbanski
Chief United States District Judge

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF CORRECTION,
Respondent.

Petitioner Owen Lee Lanier, a Virginia inmate proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By the Order entered on May 30, 2017, the court informed Petitioner that the petition appeared untimely and unexhausted and requested information within ten days. The Order advised Petitioner that a failure to respond could result in dismissal of the petition. Petitioner has not responded to the Order, and as the time allotted for his response has expired, this action is dismissed without prejudice for failing to comply with the Order. See Ballard v. Carlson, 882 F.2d 93, 96 (4th Cir. 1989) (stating pro se litigants are subject to time requirements and respect for court orders and dismissal is an appropriate sanction for non-compliance); see also Donnelly v. Johns-Manville Sales Corp., 677 F.2d 339, 340-41 (3d Cir. 1982) (recognizing a district court may sua sponte dismiss an action pursuant to Fed. R. Civ. P. 41(b)). Based upon the court's finding that petitioner has not made the requisite substantial showing of a denial of a constitutional right as required by 28 U.S.C. § 2253(c) and Slack v. McDaniel, 529 U.S. 473, 484 (2000), a certificate of appealability is denied. The petition may be refiled in a new and separate action subject to 28 U.S.C. § 2244(d)(1).

ENTER: This 11 day of July, 2017.

/s/ Michael F. Urbanski

Chief United States District Judge